

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

DANIEL RAY HOWARD,

Plaintiff,

 γ_1

CAPTAIN CARTER, et.al.,

Defendants.

CV 02-HGD-1773-N

ENTERED

MAR 4 8 2003

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on March 6, 2003, recommending that certain claims and defendants in this action filed pursuant to 42 U.S.C. §1983 be dismissed for failing to state a claim upon which relief can be granted under 28 U.S.C. §1915A(b), and other claims and defendants be referred to the magistrate judge for further proceedings consistent therewith. No objections have been filed.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the following claims and defendants are due to be dismissed for failing to state a claim upon which relief can be granted pursuant to 28 U.S.C. §1915A(b):

1. Plaintiff's Fourteenth Amendment due process claim related to alleged excessive force used against him by defendants Carter, Cooper, Fails, Tucker, Edwards, Pickett, and McGowen;

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2. Plaintiff's Fourth Amendment search and seizure claim, his Eighth Amendment claim related to the loss of his personal property, his Fourteenth Amendment due process claim related to the loss of his personal property, his Fourteenth Amendment equal protection claim and his First Amendment access to court claim against defendants Cooper, Freeman, Tucker, Clarke, Mayfield, Singleman, Edmon, Pickett and McGowen; and

3. Defendants Richards, Snyder and Jones.

Moreover, the following claims and defendants are due to be REFERRED to the magistrate judge for further proceedings consistent therewith:

1. Plaintiff's Eighth Amendment excessive force claim related to a November 28, 2001, assault incident, against defendants Carter, Cooper, Fails, Tucker, Edwards, Pickett, and McGowen; and

2. Plaintiff's First Amendment Freedom of Religion claim against defendants Cooper, Freeman, Tucker, Clarke, Mayfield, Singleman, Edmon, Pickett and McGowen.

An appropriate order will be entered.

DATED this 27th day of March, 2003.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE